

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**INTERIM APPLICATION NO.3687 OF 2024
IN
CAVEAT (L) NO.24321 OF 2022
IN
(TESTAMENTARY PETITION NO.786 OF 2021)
AS ON TESTAMENTARY SUIT NO.63 OF 2022**

Karishma Malani Sharma alias

Karishma Suresh Malani

... Applicant

In the matter of

Mrs. Pushpa S. Hira nee Malani

... Plaintiff

Vs.

Karishma Malani Sharma alias

Karishma Suresh Malani

... Defendant/Caveator

Ms. Tanvi Goenka i/by Khaitan & Company for the Applicant/Defendant/
Caveator.

Mr. Denzil D'Mello for the Plaintiff.

CORAM : ARIF S. DOCTOR, J.

DATE : 08TH JANUARY 2025

P.C. :

1. The present Interim Application seeks condonation of one day's delay in filing of the Caveat as also condonation of delay of 89 days in filing of the Affidavit in support of the Caveat.

2. Mr. D'Mello, Learned Counsel appearing on behalf of the Plaintiff submits that the Plaintiff is not desirous of filing of Affidavit in Reply to oppose the Interim Application. He opposes the Interim Application on the ground that the reason for the delay of 89 days is not one which is tenable. The delay is on the ground that the time was taken since the Caveatrix had to approach the Canadian Consulate for affirming the Affidavit in support of the Caveat which, he submitted, was not necessary.

3. Having heard Learned Counsel and having considered their rival contentions, I find that the delay of 89 days, which has occasioned in filing of Affidavit in Reply, is neither intentional nor inordinate. Furthermore, the reason for the delay is succinctly set out in Paragraphs 4 and 5 of the Interim Application. Admittedly, there is no denial to this. It cannot be said that the Caveatrix had acted in a negligent manner, since the delay in filing of the Caveat is only one day and thus I am inclined to allow the Interim Application accepting what is stated in Paragraphs 4 and 5.

4. The present Interim Application is therefore allowed in terms of prayer clauses (a) and (b), which reads thus:-

“(a) That this Hon’ble Court be pleased to condone delay of 1 day in filing the Caveat on behalf of the Applicant in the captioned matter;

- (b) *That this Hon'ble Court be pleased to condone delay of 89 days in filing the Affidavit in Support of Caveat, on behalf of the Applicant in the captioned matter;*
- (c) *That this Hon'ble Court on the Order in terms of prayers (a) and (b) being passed, take on record the Caveat and the Affidavit in Support of Caveat on behalf of the Applicant in the captioned matter;"*

5. The Interim Application is thus disposed of accordingly.

(ARIF S. DOCTOR, J.)